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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,498	07/16/2003	Michael Eckert	3053-046	9060
22440	7590	10/05/2005	EXAMINER	
GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 100160601			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>KC</i> Office Action Summary	Application No.	Applicant(s)
	10/620,498	ECKERT, MICHAEL
	Examiner	Art Unit
	Hanh V. Tran	3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 July 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-24 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 16 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/16/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the First Office Action on the Merits from the examiner in charge of this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6, line 7, "said articles" lacks antecedent basis. Claim 8, it is not clear how the apertures are in the back wall of the cases, and the cases are adapted to hang from said apertures. Claim 13, (1) line 9, it is not clear how "said shelf cooperating with said shelf", (2) line 12, "one of said cases" lacks antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10, 13-16, 19-20, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 4,300,809 to Brownlee.

Brownlee discloses a display case comprising all the elements recited in the above listed claims including, such as shown in Figs 2-5, a housing having a

substantially tubular shape with lateral openings, a plurality of cases rotatably mounted in one of said openings, a plurality of shelves 6, such as shown in Fig 14, removably attached to said case, a lock 178; wherein said case includes a back 50 with apertures 250, each of the shelves comprises a box and is partitioned into chambers, with each box having a front opening and a rear opening 294.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 11, 17-18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brownlee in view of USP 4,844,564 to Price, Sr. et al. Brownlee discloses all the elements as discussed above except for clips arranged to bias DVDs and tapes toward the front of the chambers, and the shelves are transparent.

Price, Sr. et al teaches the idea of a display case comprising a housing, a case 60, shelves 116 being partitioned into chambers, clips 350 (Fig 12) arranged to bias DVDs and tapes toward the front of the chambers in order to securely hold the tapes in the chambers, yet easy to remove. Therefore, it would have been obvious to modify the structure of Brownlee by providing the chambers with clips arranged to bias DVDs and tapes toward the front of the chambers in order to securely hold the tapes in the chambers, yet easy to remove, as taught by Price, Sr. et al, since both teach alternate conventional display case structure, used for the same intended purpose, thereby providing structure as claimed. In regard to the shelves being transparent, the examiner takes the official notice that having shelves made out of a transparent material in order to provide viewing of content stored thereon is well known and well within the level of one skill in the art.

9. Claims 1-7, 12-13, 19-20, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 234,461 to Dodge in view of Brownlee.

Dodge discloses a display case comprising all the elements recited in the above listed claims including, such as shown in Figs 1-2, a housing, a plurality of cases D, a plurality of removable shelves D', angular limiting means for limiting the angular rotation of the device to about 180; wherein the rear surface of each case visible externally when the cases are in closed position, the rear surfaces being adapted to hold one of a decoration and an advertisement. The different being that Dodge does not disclose locking means for locking the cases in the closed position.

Brownlee teaches the idea of providing a display case with locking means 178 for the purpose of locking the case in the closed position in order to prevent unauthorized access thereto. Therefore, it would have been obvious to modify the structure of Dodge by providing the display case with locking means for the purpose of locking the case in the closed position in order to prevent unauthorized access thereto, as taught by Brownlee, since both teach alternate conventional display case structure, used for the same intended purpose, thereby providing structure as claimed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kidd et al, Hudnall, Poortvliet et al, Baur, deceased, Price, Jr. et al, Sandor, Isaac et al, and Koeda all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT
September 30, 2005


Hanh V. Tran
Art Unit 3637